

(M. C. Galindo
PARTIES TO DISPUTE: (
(The Atchison, Topeka and Santa Fe Railway Company

STATEMENT OF CLAIM: "Claim of M. C. Galindo (#459) on behalf of John Villa
that:

(a) Carrier violated the provisions of the current Clerks' Agreement at Los Angeles, California when it wrongfully terminated Mr. John Villa without holding an investigation, and

(b) Carrier withheld certain information from Mr. Villa which was vital to his continued employment with the Carrier, and

(c) Carrier willfully and maliciously discriminated against Mr. Villa, and

(d) Mr. Villa shall be restored with the Carrier together with all seniority rights, and

(e) Mr. Villa shall now be compensated \$6,000.00 plus \$100.00 per day for everyday Mr. Villa remains out of service, or all back wages which he is entitled to, and

(f) Mr. Villa shall now be compensated interest and any other penalties and awards deemed proper by this Honorable Board."

FINDINGS:

The Third Division of the Adjustment Board upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employes within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

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Award No. 27262
Docket No. MS-27935
88-3-87-3-476

As Third Party in Interest, the Transportation Communications Union was advised of the pendency of this dispute and filed a Submission with the Division.

The facts indicate that no conference was held as required by Rule 47 of the Agreement and the Railway Labor Act. For the reasons set forth in Third Division Award 26749, the Claim must be dismissed.

Finally, even if the merits could be reached, we can find nothing in the applicable Agreement between the Carrier and the Organization which supports the Claimant's position that such Agreement was violated.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Attest: 
Nancy J. Dwyer - Executive Secretary

Dated at Chicago, Illinois, this 20th day of July 1988.